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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
215 Fremont Street  
San Francisco, Ca. 94105

CERTIFIED MAIL NO. P574825083  
Return Receipt Requested  
In Reply: T-5-2  
Refer to: TSCA-09-86-0036

December 15, 1986

Mr. Ward W. Waddell Jr.  
Assistant General Counsel  
General Dynamics Corporation  
P.O. Box 85357  
San Diego, California 93138

RECEIVED  
REGIONAL HEARING CLERK

DEC 15 1986

REGION IX

Dear Mr. Waddell:

Enclosed is your copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with Mr. David Jones of the Office of Regional Counsel.

Your completion of all remedial actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions regarding the rules, regulations and statutes governing your operations which are implemented by the Agency or which govern the proceedings terminated by the enclosed document, please contact Cathy Cowley at 415-974-7295. (T-5-2)

Sincerely,

*Davis Bernstein*

*for/* Jeff Zelikson  
Acting Director  
Toxics and Waste Management Division

Enclosure

cc: Mr. John McSweeney, General Manager  
General Dynamics Corporation

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**FILED**

**DEC 15 1986**

**ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
HEARING CLERK**

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

In re:	)	Docket No. TSCA-09-86-0036
	)	
GENERAL DYNAMICS CORPORATION,	)	CONSENT AGREEMENT
	)	
	)	AND
<u>Respondent.</u>	)	FINAL ORDER

I

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxics Substances Control Act, as amended (TSCA), [15 USC 2615(a)]. The action was instituted by a Complaint and Notice of Opportunity for Hearing (Complaint) issued on May 7, 1986. The Complaint charged General Dynamics Corporation (Respondent), with the violation of 40 C.F.R. §761.30(a)(1), §761.40(a)(10), §761.60(a)(1), §761.65(b)(iv), 761.65(c)(5), §761.180(a) and §761.180(b) and Section 15(1)(C) of T.S.C.A. [15 T.S.C.A. §2614(1)(c)] at the facility operated by Respondent located at 4297 Pacific Highway, San Diego, California. Complainant is

1 the United States Environmental Protection Agency (EPA),  
2 Region 9.

3 II

4 Respondent and Complainant admit and agree that the  
5 Regional Administrator, EPA Region 9, has jurisdiction of the  
6 subject matter of the action set out in the Complaint and over  
7 the parties thereto, pursuant to 16 USC 2615 and 40 CFR 22.04(a).

8 III

9 Respondent neither admits nor denies the specific factual  
10 allegations set out in the Complaint. Respondent hereby waives  
11 any rights which it may have to a hearing on any issues result-  
12 ing from the Complaint. Complainant waives whatever rights it  
13 may have to compel Respondent to answer or otherwise defend  
14 the Complaint. Respondent consents to the issuance of this  
15 Consent Agreement and Final Order without adjudication.

16 IV

17 Respondent consents to the assessment of a civil penalty  
18 in the amount of TWENTY THOUSAND DOLLARS in lieu of the penalty  
19 proposed in the Complaint of EIGHTY THOUSAND DOLLARS.

20 V

21 Respondent in executing this Consent Agreement and Final  
22 Order, agrees that it will use its best efforts to come into  
23 compliance with all applicable requirements of TSCA and the  
24 implementing regulations particularly the following:

- 25 1. Respondent shall implement the requirements of  
26 40 C.F.R. §761.30(a)(1)(iv) which requires the main-  
27 tenance of certain records of inspection and  
28 maintenance history pertaining to PCB Transformers  
including the specific items of information as  
enumerated in the regulation paragraphs (A) - (H).

- 1           2. Respondent shall implement the requirements of  
2           40 C.F.R. §761.180(a) and (b) with respect to the  
3           maintenance of records including the annual document  
4           requirements for PCB Items in storage for use or  
5           disposal. Respondent shall submit to Complainant  
6           within thirty days after execution of this Consent  
7           Agreement the annual document format to be used in  
8           complying with this requirement.
- 9           3. Respondent shall mark all storage areas in accordance  
10           with the requirements of 40 C.F.R. §761.40 and §761.45.
- 11           4. Respondent shall undertake the necessary action to  
12           bring any facility used for PCB storage whether for use  
13           or disposal into full compliance with the applicable  
14           regulatory requirements.
- 15           5. Respondent shall clean-up all PCB leaks at the Facility  
16           whether identified in the Complaint or not, and dispose  
17           of clean-up materials in accordance with 40 C.F.R.  
18           761.60(a).
- 19           6. Respondent shall provide Complainant within forty-five  
20           days after the execution of this Consent Agreement and  
21           Final Order by Respondent with a narrative description  
22           of Respondent's clean-up effort to date supported by  
23           documentation such as: identification of sample loca-  
24           tion, sample analysis results, verification sampling  
25           information, clean-up process, clean-up materials used,  
26           manifest of disposed materials (including transformers  
27           removed).
- 28           7. Respondent shall provide complainant within 45 days...  
            plan for any future clean-up efforts which shall  
            include by way of example the information set forth in  
            item 6 above.

Respondent shall certify to Complainant no later than ninety days after execution of this Agreement by Respondent, 1) that the Facility is being operated in full compliance with TSCA and the implementing regulations and 2) the status of the tasks set forth in Items 1 - 7 above. In addition to the certifications required under the Article V with respect to clean-up as set out above, Respondent shall also indicate the dollar amount expended at the facility and site referred to in this Article V above.

1 In the event Respondent is unable to complete any of the task  
2 to be completed prior to certification and within the time set  
3 out above, Complainant will extend the time for performance  
4 upon Respondent's written request, provided Respondent can  
5 demonstrate to Complainant's reasonable satisfaction that  
6 Respondent has used its best efforts to meet the time  
7 limitation set forth herein.

8 Respondent shall submit to Complainant within ten consecu-  
9 tive days after the end of each calendar quarter for a period  
10 of four consecutive calendar quarters on and after the date of  
11 execution this Agreement by Respondent, a complete report  
12 which shall indicate the status of the projects set out as  
13 Items 1 - 7 in this Article V above.

14 All submissions under this Consent Agreement and Final  
15 Order shall be addressed as follows:

16 Richard E. Vaille, Chief  
17 Toxics Section  
18 Pesticides and Toxics Branch  
19 Toxics and Waste Management Division  
20 United States Environmental Protection Agency  
21 Region 9  
22 215 Fremont Street  
23 San Francisco, CA 94105

24 Respondent hereby agrees that its failure to fulfill the  
25 obligations as set forth in this Article V shall constitute an  
26 additional violation of TSCA which may subject Respondent to  
27 a penalty in the same amount as proposed in the Complaint.

28 / / /  
/ / /  
/ / /  
/ / /

Complainant and Respondent consent to the entry of this Agreement and Final Order without further notice.

November 17, 1986  
Date

General Dynamics Corporation  
Respondent

By W. W. Waddell  
Assistant Secretary

12-5-86  
Date

Davis Bernstein  
for Jeffrey Zelikson  
Acting Director,  
Toxics and Waste Management  
Division

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. TSCA-09-86-0036) be entered and Respondent shall pay by cashier's check or certified check, made payable to the Treasurer, United States of America, and addressed as follows:

EPA - Region 9  
Regional Hearing Clerk  
P. O. Box 360863M  
Pittsburgh, PA 15251,

a civil penalty in the amount of TWENTY THOUSAND DOLLARS. This order shall become effective immediately.

08 DEC 1986  
Date

Judith E. Ayres  
JUDITH E. AYRES  
Regional Administrator,  
EPA,  
Region 9

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order Docket No. TSCA-09-8600036 was filed with the Regional Hearing Clerk, Environmental Protection Agency, Region 9, and that copies, addressed as follows, were served by mailing Certified Mail, Return Receipt Requested, postage prepaid, in a United States Mail Box, at the City and County of San Francisco, California, on the 15<sup>th</sup> day of December, 1986:

Honorable Spencer T. Nissen  
Administrative Law Judge  
Environmental Protection Agency  
401 M Street, S.W.  
Room 3706A, Waterside Mall  
Washington, D.C. 20460

Certified Mail #  
P000583430

Mr. John McSweeney  
General Manager  
General Dynamics Corporation  
Box 85357  
San Diego, CA 93138

Certified Mail #  
P574825035

Mr. Ward W. Waddell, Jr.  
Assistant General Counsel  
General Dynamics Corporation  
Box 85357  
San Diego, CA 93138

Certified Mail #  
P574825083

Dated at City and County of San Francisco, California, this  
15<sup>th</sup> day of December, 1986.

Sue Durbin  
Sue Durbin, Secretary  
Pesticides and Toxics Branch  
Toxics & Waste Management Division  
EPA, Region 9